

## HOUSE BILL NO. 625

INTRODUCED BY RICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A REQUEST FOR DESIGNATION OF A RESORT AREA OR RESORT COMMUNITY BY THE DEPARTMENT OF COMMERCE MUST BE MADE IN WRITING BY THE GOVERNING BODY OF THE COUNTY A RESIDENT OF THE AREA OR MUNICIPALITY; ~~CLARIFYING CHANGING THE POPULATION REQUIREMENT REQUIREMENTS~~ FOR RESORT AREAS AND ~~DELETING THE POPULATION REQUIREMENT FOR RESORT COMMUNITIES~~; REQUIRING THAT A VOTE ON WHETHER TO IMPOSE A RESORT TAX MUST BE CONDUCTED WITHIN 5 YEARS OF THE RESORT AREA OR RESORT COMMUNITY DESIGNATION; REQUIRING THE PETITION OR RESOLUTION FOR ESTABLISHING THE RESORT AREA OR RESORT COMMUNITY TO SPECIFY THE PURPOSES THAT WILL BE FUNDED BY THE TAX REVENUE; ~~REVISING THE TIME FOR PUBLISHING NOTICE OF THE ELECTION~~; ~~PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF COMMERCE REGARDING RESORT AREA OR RESORT COMMUNITY DESIGNATION~~; ~~REVISING THE PERCENTAGE OF REGISTERED VOTERS IN A PROPOSED RESORT AREA DISTRICT THAT IS NEEDED TO PETITION FOR THE CREATION OF A RESORT AREA DISTRICT~~; REQUIRING THAT A PETITION FOR ESTABLISHING A RESORT AREA BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION; AMENDING SECTIONS 7-6-1501, 7-6-1504, 7-6-1506, AND 7-6-1508, ~~7-6-1533, AND 7-6-1536~~; MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-6-1501, MCA, is amended to read:

**"7-6-1501. Resort tax -- definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(4) "Resort area" means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has, prior to designation by the department of commerce, a population of less than 2,500 according to the most recent federal census or federal estimate;

(c) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production; and

(d) has, upon the written request of the board of county commissioners ~~A PERSON WHO IS A RESIDENT OF THE AREA,~~ been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508.

(5) "Resort community" means a community that:

(a) is an incorporated municipality;

~~(b) has a population of less than 5,500 according to the most recent federal census or federal estimate;~~

~~(B) HAS, PRIOR TO DESIGNATION BY THE DEPARTMENT OF COMMERCE, A POPULATION OF LESS THAN 5,500, 5,500 ACCORDING TO THE MOST RECENT FEDERAL CENSUS OR FEDERAL ESTIMATE;~~

~~(c)(b)(C)~~ derives the primary portion of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and

~~(d)(c)(D)~~ has, upon the written request of the governing body ~~A PERSON WHO IS A RESIDENT of the municipality,~~ been designated by the department of commerce as a resort community."

**Section 2.** Section 7-6-1504, MCA, is amended to read:

**"7-6-1504. Resort tax -- election required -- procedure -- notice.** (1) A resort community or area may not impose or, except as provided in 7-6-1505, amend or repeal a resort tax unless the resort tax question has been submitted to the electorate of the resort community or area and approved by a majority of the electors voting on the question. The question must be submitted to the electorate within 5 years of the date that the department of commerce designates a resort community or resort area as defined in 7-6-1501, OR IF THE DESIGNATION OCCURRED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT], THE QUESTION MUST BE SUBMITTED TO THE

1 ELECTORATE PRIOR TO [5 YEARS AFTER THE EFFECTIVE DATE OF THIS ACT]. ~~An election may not be held based upon~~  
2 ~~a designation that is more than 5 years old.~~

3 (2) The resort tax question may be presented to the electors of:

4 (a) a resort community by a petition of the electors as provided by 7-1-4130, 7-5-132, and 7-5-134  
5 through 7-5-137 or by a resolution of the governing body of the resort community; or

6 (b) a resort area by a resolution of the board of county commissioners, following receipt of a petition  
7 of electors as provided in 7-6-1508.

8 (3) If a resort area is in more than one county, the resort tax question must be presented to and  
9 approved by the electors in the resort area of each county.

10 (4) The petition or resolution referring the taxing question must state:

11 (a) the rate of the resort tax;

12 (b) the duration of the resort tax;

13 (c) the date when the tax becomes effective, which date may not be earlier than 35 days after the  
14 election; and

15 (d) the purposes that ~~may~~ will be funded by the resort tax revenue.

16 (5) Upon receipt of an adequate petition, the governing body may:

17 (a) call a special election on the resort tax question; or

18 (b) have the resort tax question placed on the ballot at the next regularly scheduled election.

19 (6) (a) Before the resort tax question is submitted to the electorate of a resort community or area, the  
20 governing body of the resort community or the board of county commissioners in the county in which the resort  
21 area is located shall publish notice of the goods and services subject to the resort tax, in a newspaper that meets  
22 the qualifications of subsection (6)(b). The notice must be published twice, with at least 6 days separating  
23 publications. The first publication must be no more than ~~30~~ 60 days prior to the election and the last no less than  
24 ~~3~~ 6 days prior to the election.

25 (b) The newspaper must be:

26 (i) of general, paid circulation with a second-class mailing permit;

27 (ii) published at least once a week; and

28 (iii) published in the county where the election will take place.

29 (7) The question of the imposition of a resort tax may not be placed before the electors more than once  
30 in any fiscal year."

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2           **Section 3.** Section 7-6-1506, MCA, is amended to read:

3           **"7-6-1506. Use of resort community tax revenues -- bond issue -- pledge.** (1) ~~Unless otherwise~~  
4 ~~restricted by the voter-approved tax authorization provided for in 7-6-1504, a~~ A resort community may  
5 appropriate and expend ~~revenues~~ revenue derived from a resort tax for any activity, undertaking, or  
6 administrative service that ~~the municipality is authorized by law to perform~~ is authorized in the petition or  
7 resolution referred to the voters, including costs resulting from the imposition of the tax.

8           (2) A resort community may issue bonds to provide, install, or construct any of the public facilities,  
9 improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102. Bonds issued under this  
10 section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants  
11 of the municipality as the governing body considers appropriate. The bonds may be sold at a discount at a public  
12 or private sale.

13           (3) A resort community may pledge for repayment of bonds issued under this section the ~~revenues~~  
14 revenue derived from a resort tax, special assessments levied for and ~~revenues~~ revenue collected from the  
15 facilities, improvements, or undertakings for which the bonds are issued, and any other source of revenue  
16 authorized by the legislature to be imposed or collected by the resort community. ~~Such~~ The bonds do not  
17 constitute debt for purposes of any statutory debt limitation, provided that in the resolution authorizing the  
18 issuance of the bonds the municipality determines that the resort tax ~~revenues~~ revenue, special assessments  
19 levied for and ~~revenues~~ revenue from such facilities, improvements or undertakings, or other sources of  
20 revenue, if any, pledged to the payment of the bonds will be sufficient in each year to pay the principal ~~thereof~~  
21 of the bonds and interest ~~thereon~~ on the bonds when due. Bonds may not be issued pledging proceeds of the  
22 resort tax for repayment unless the municipality in the resolution authorizing issuance of the bonds determines  
23 that in any fiscal year the annual ~~revenues~~ revenue expected to be derived from the resort tax, less the amount  
24 required to reduce property taxes pursuant to 7-6-1507, equals at least 125% of the average amount of the  
25 principal and interest payable from the resort tax ~~revenues~~ revenue on the bonds and any other outstanding  
26 bonds payable from the resort tax except any bonds to be refunded upon the issuance of the proposed bonds."

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28           **Section 4.** Section 7-6-1508, MCA, is amended to read:

29           **"7-6-1508. Establishment of a resort area -- taxing authority -- approval by electorate.** (1) (a) The  
30 establishment of a resort area for the purpose of imposing a resort tax may be initiated by a written petition to

1 the board of county commissioners of the county in which the area is located.

2 (b) The petition must contain a description of the proposed resort area and must be signed by at least  
3 15% of the electors residing in the proposed area.

4 ~~—— (c) Prior to submitting a request for designation to the department of commerce, the county~~  
5 ~~commissioners shall verify the description of the proposed resort area and determine the electors eligible to vote~~  
6 ~~in the election.~~

7 (2) The petition must include a proposal to impose a resort tax within the proposed resort area, including  
8 the rate, duration, effective date, and purpose of the tax as provided in 7-6-1504. THE PETITION MUST BE  
9 PUBLISHED IN A NEWSPAPER THAT MEETS THE QUALIFICATIONS OF 7-6-1504(6)(B) 4 WEEKS BEFORE THE PETITION IS  
10 SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS.

11 (3) Upon receiving a petition to establish a resort area, the board of county commissioners shall present  
12 the question to the electors residing in the proposed resort area as provided in 7-6-1504."

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14 ~~—— **Section 5.** Section 7-6-1533, MCA, is amended to read:~~

15 ~~—— **"7-6-1533. Petition to create resort area district.** (1) Electors residing within a resort area may~~  
16 ~~present, at a regular meeting, a petition requesting the establishment of a resort area district to the board of~~  
17 ~~county commissioners of the county in which the proposed resort area district is located. The petition must be~~  
18 ~~signed by at least 10% of the registered voters within the resort area.~~

19 ~~—— (2) When the area to be included within the proposed resort area district lies in more than one county,~~  
20 ~~the electors within a resort area shall present a petition to the board of county commissioners in each county.~~  
21 ~~Each petition must contain the signatures of at least 10% 15% of the registered voters of the resort area that lies~~  
22 ~~within that county.~~

23 ~~—— (3) The petition must include a description or map of the existing resort area boundaries. The petition~~  
24 ~~may not describe proposed resort area district boundaries that are different from the existing resort area~~  
25 ~~boundaries designated pursuant to 7-6-1508."~~

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27 ~~—— **Section 6.** Section 7-6-1536, MCA, is amended to read:~~

28 ~~—— **"7-6-1536. Resort area district -- election required -- notice.** (1) (a) Upon a determination that the~~  
29 ~~petition complies with the provisions of 7-6-1531 through 7-6-1550, the The board of county commissioners of~~  
30 ~~each county in which the resort area lies shall give notice of an election to be held in the proposed resort area~~

district for the purpose of determining whether a resort area district should be created. The election must be held upon a determination:

——— (i) that the petition complies with the provisions of 7-6-1531 through 7-6-1550; or

——— (ii) if a petition is not received, that the establishment of the resort area is in the best interest of the county;

——— (b) The election must be held in conjunction with a regular or primary election.

——— (2) Notice of the election must be made as provided in 13-1-108 and must:

——— (a) describe the purpose of the proposed resort area district; and

——— (b) state the name of the proposed resort area district, which must include the words "resort area district".

——— NEW SECTION. Section 7. Rulemaking authority. The department of commerce may adopt rules to implement the provisions of this part relating to the designation of a resort area or community.

——— NEW SECTION. Section 8. Codification instruction. [Section 7] is intended to be codified as an integral part of Title 7, chapter 6, part 15, and the provisions of Title 7, chapter 6, part 15, apply to [section 7].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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